GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

DEPARTMENT OF TRIBAL WELFARE - Revision Petition filed by Sri Pamarthi Rambabu, S/o. Ramaiah, Vemanapalli (V), Gangavaram (M), Alluri Sitharamaraju District erstwhile East Godavari District against the orders of the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.17/2022, dated.24.01.2023 an extent of Acs. 11.01 ctc (Ac.3.91 Cts in Sy.No.14/1, 14/3, Ac.6.35 Cts 14/4, Ac.0.75 Cts) situated in Patharamavaram Village of Gangavaram Mandal, East Godavari District - Partially allowed - Orders - Issued.

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DEPARTMENT OF TRIBAL WELFARE

G.O.Ms.No.18 **Dated:15.03.2024.**
Read the following:-

1. Revision petition Dt.06.02.2023 filed by Sri Pamarthi Rambabu, S/o Ramaiah, Vemanapalli (V), Gangavaram (M), Alluri Sitharamaraju District erstwhile East Godavari District.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitha Rama Raju District, CMA No.17/2022, Dt.12.07.2023.

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In the reference 1st read above, Sri. Pamarthi Rambabu (Tribe), S/o. Ramaiah, Vemanapalli Village, Gangavaram Mandal, Alluri Sitharamaraju District has filed a petition before the Special Deputy Collector, Rampachodavaram, Alluri Sitharamaraju District U/s 3 (1) (a) of LTR 1 OF 1959 as amended by Land Transfer Regulation 1 of 70 against the Sri. Moganti Venkata Rao, (Non-Tribe) Kamarajupet Village, Gangavaram Mandal, Alluri Sitharamaraju District, on the Petition Schedule land extent Ac.11.01 cts (Ac.3.91 Cts in Sy.No.14/1, 14/3, Ac.6.35 Cts 14/4, Ac.0.75 Cts) situated in Patharamavaram Village of Gangavaram Mandal, Alluri Sitharamaraju District, erstwhile East Godavari District.

2. Brief facts of the case:

a. Sri. Pamarthi Rambabu (Tribe), S/o Ramaiah, Vemanapalli Village, Gangavaram Mandal, Alluri Sitharamaraju District has filed a petition before the Special Deputy Collector, Rampachodavaram, Alluri Sitharamaraju District U/s 3(1) a of Land Transfer Regulation 1 of 1959 as amended by Land Transfer Regulation 1 of 70 against the Sri. Moganti Venkata Rao, (Non-Tribe) Kamarajupet Village, Gangavaram Mandal, Alluri Sitharamaraju District, on the Petition Scheduled land extent Ac.11.01 cts (Ac.3.91 Cts in Sy.No.14/1, 14/3, Ac.6.35 Cts 14/4, Ac.0.75 Cts) situated in Patharamavaram Village of Gangavaram Mandal, Alluri Sitharamaraju District, erstwhile East Godavari District.

b. The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District ordered dated:02.05.2008, L.T.R.P.No.12/2005 do hereby decree ejectment against Sri. Moganti Venkata Rao the petition schedule land Ac.11.01 cts in Sy.No's.14/1, 14/3, 14/4 and restored the same to the petitioner Sri. Pamarthi Rambabu, S/o Ramaiah and directed to the Tahasildar, Gangavaram to evict the Respondent and hand over to the petitioner and report compliance immediately.

c. Aggrieved by the orders of Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District Sri. Moganti Venkata Rao, S/o Jogi Raju, Kamarajupeta Village, Gangavaram Mandal has filed an appeal against Pamarthi Rambabu, S/o. Ramaiah before the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District for set aside the order passed by the Lower Court and simultaneously approached the High Court of A.P. and filed W.P. No.21146/2021 requested the Hon'ble High Court to grant stay over

the orders passed in LTRP No.12/2005, until disposal of the appeal pending before the Additional Agent to Government, Rampachodavaram (2nd Respondent) and the Hon'ble High Court of A.P. has directed the 2nd respondent i.e., Additional Agent to Government, Rampachodavaram to dispose the appeal within a period of 08 weeks from the date of receipt of Court Order.

d. Accordingly, the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District considered the Petition Schedule lands were purchased by the forefathers of the appellant herein through register sale deeds in the year 1911 & 1912 and the said land was devolved to the appellant through succession and no transaction was took place after the commencement of Land Transfer Act 1/1917 and A.P.S.A.L.T.R. 1/1959 as amended by 1/1970.

e. The Tahsildar has reported that the Petition Schedule lands are belongs to the appellant family since 1911 & 1912 registered sale deeds and while verified the Re-settlement Register / A-Register, which prepared in the year 1935, it is noticed that the appellants Grandfather name "Moganti Surya Rao" was registered at Sy.No.14/1 for an full extent of Ac.3.91 Cts in Sy.No.14/3 for an full extent of Ac.6.35 Cts in Sy.No.14/4 for an full extent of Ac. 0.72 Cts and the appellant's family members names were registered in the available Fair Adangals 1421, 1422, 1424, 1425, 1426, 1429 and 1431 and the Petition Schedule land is never been under the possession and enjoyment of Tribal Respondent or his family members after the commencement of Land Transfer Act 1/1917.

f. Finally, the Additional Agent to Government, Rampachodavaram has order dated.24.01.2023 under Sub-section (3) of Rule 8 of APSALTR 1969 and LTR Regulations 1959 as amended by Act 1 of 1970, hereby set aside the Lower Court Order passed by the Special Deputy Collector (TW), Rampachodavaram in L.T.R.P.No.12/2005, dated:02.05.2008, confirming the rights of the appellant over the land of an extent of Ac.10.98 Cts in Sy.No.14/1, 14/3 &14/4 of Patharamavaram Village of Gangavaram Mandal and directed to the Tahsildar, Gangavaram Mandal to handover the said lands to the appellant herein and report compliance.

3. Aggrieved by the above orders, Sri. Pamarthi Rambabu (Tribe), S/o. Ramaiah, Vemanapalli Village, Gangavaram Mandal, Alluri Sitharamaraju District has filed a Revision Petition before the Government and requested to set aside the orders of the Project Officer / Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No. 17/2022, dt.24.01.2023 in the interest of the justice.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Ramapachodavaram in his letter Dt.12.07.2023 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.17/2022, dated.24.01.2023 and the remarks on the affidavit filed by the petitioner.

5. The said revision petition has been posted for hearing before the Hon'ble Revision Authority on 15.07.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connection records / relevant materials and para-wise remarks submitted by the Special Deputy Collector (TW), Ramapachodavaram and Special Deputy Tahsildar (TW), Devipatnam Mandal and written arguments filed by the petitioner's counsel and finally reopen the case on 16.12.2023 because respondent not submitted the written arguments. The revision authority has observed that:

(i) This Memorandum of Revision Petition is filed by Sri Pamarthi Rambabu (Scheduled Tribe), S/o Ramaiah, Vemanapalli Village, Gangavaram Mandal,

Alluri Sitharamaraju District, under Section 6 of the AP Scheduled Area Land Transfer Regulations, being aggrieved by the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District with regard to Petition Schedule lands measuring an extent Ac.11.01 cts (Ac.3.91 Cts in Sy.No.14/1, 14/3, Ac.6.35 Cts 14/4, Ac.0.75 Cts) situated in Patharamavaram Village of Gangavaram Mandal, East Godavari District, presently in Alluri Sitharamaraju District, passed in C.M.A. No. 17/2022, dt.24.01.2023 under Sub-section (3) of Rule 8 of APSALTR 1969 and Land Transfer Regulations 1 of 1959 as amended by Act 1 of 1970 setting aside the order of the Special Deputy Collector (TW), Rampachodavaram passed in L.T.R.P.No.12/2005, dated.02.05.2008, while confirming the rights of the Non Tribe Respondent here in, directing the Tahsildar, Gangavaram Mandal to handover the said lands to him and report compliance by evicting tribal Revision Petitioner here in.

(ii) The matter came up for hearing before the Revision Authority on 15.17.2023 in the presence of Counsel for the Revision Petitioner and Respondent and the Special Deputy Collector (TW) Rampachodavaram and Special Deputy Tahisldar (TW), ITDA. Parawise remarks were furnished by the Additional Agent to Government. The counsel for the Revision Petitioner submitted written arguments. Heard parties. The Counsel for the Respondent also submitted his written arguments. After perusing the material papers available in the file the following order is made on merits.

(iii) The brief facts of the case are that the Revision Petitioner here in filed a petition before the Special Deputy Collector, Rampachodavaram, Alluri Sitharamaraju District U/s 3(1) a of LTR 1 OF 1959 as amended by LTR 1 OF 70 against the Respondent here in seeking restoration of the Petition Schedule lands which was allowed. Aggrieved by the said order an appeal was filed by the 1st Respondent here in before the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District which was allowed in his favor while setting aside the order of the Special Deputy Collector, Tribal Welfare, Rampachodavarm. The present Revision Petition is filed by the Revision Petitioner who is a Scheduled Tribe aggrieved by the order of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District.

(iv) The Revision Petitioner here in contends that the Additional Agent to Government, (2nd respondent) passed an impugned order without considering the recitals in the registered sale deeds executed by a tribal in favor of non-tribals in the year 1911 and 1912 and that the claim in favor of the 1st respondent here in was allowed for the total extent of Ac.11.01 acres while the extents shown in the said deeds were only for the total Ac 6.60 cts and that there is no connection to the lands cited in the said sale deeds and the subject lands and that the settlement adangal copy was considered as settlement patta issued in favor of 1st respondent and the impugned order was passed on the basis of the orders passed by Special Deputy Collector (TW), Rampachodavaram in LTRP No.124/1981 and subsequent order passed in LTRP No.56/1996 where in the Revision Petitioner herein was not a party to the said proceedings, as such it would not bind him and that the revenue record 113 produced by the 1st respondent herein is questionable under the law since it was given on the basis of the earlier LTR orders issued in favor of the 1st respondent here in and that subsequently the Special Deputy Collector (TW), Rampachodavaram passed an order in favor of the Revision Petitioner in LTRP No.12/2005 and an appeal filed by the 1st respondent herein was entertained against the order passed in LTRP No.12/2005 after a lapse of 13 years which is unreasonable and against the principles of natural justice and requested to set aside the impugned order passed by the Additional Agent to Government.

(v) The 1st respondent contends that the order passed by the Special Deputy Collector, Tribal Welfare, Rampachodavaram in L.T.R.P.No.12/2005 dt:02.05.2008 is not sustainable in law since no reasons have been stated in the said orders and that the respondent/appellant is the absolute owner and possessor of the land over an extent of Ac. 10.98 cts in Sy.No.14/1, 14/3, 14/4

situated at Patharamavaram Village, Gangavaram (Agency) Mandal and the grandfather of the appellant namely Late Moganti Surya Rao has purchased the above land under different registered sale deeds way back in the year 1911 and 1912 i.e., much prior to AP Schedule Area Land Transfer Regulations 1/1917 and subsequent regulation 1/59 as amended. by Regulation 1/70 as such there is no violation as per the ruling of Hon'ble Supreme Court in the case of Deputy Collector and another Vs. S.Venkata Ramanaiah and another reported in AIR 1996 SC 224.

(vi) The contention of the 1st respondent further is that earlier L.T.R.P.No.12/2005, was initiated at the instance of Pamarthi Chinna Musalayya, S/o Balayya who is no other than grandfather of the petitioner/ST herein under Sec.3 of the AP Schedule Area Land Transfer Regulations 1/1959 as amended by 1/70 which was dismissed 20.08.1982 in their favour, which became final since no appeal is filed by the aggrieved party and that subsequent proceedings held in another LTRP case in L.T.R.P.No.56/96 was filed by one namely Annika Annapurna against the Respondent/appellant herein in respect of the same lands was also dismissed by the Special Deputy Collector, Tribal Welfare Rampachodavaram by holding that there is no violation of and transfer regulations and the authorities constituted under the AP Schedule Area Land Transfer Regulations have no power to reopen the case again by conducting repeated enquires under the provisions of land transfer regulations as per the decision of the Division Bench of this Hon'ble High Court of AP, reported in 2000 (4) ALD 443 and that the Respondent / appellant / respondent is the rightful owner of the subject matter lands and the order passed by the Additional Agent to Government of AP, Alluri Seeta Ramaraju District, at Rampachodavaram is valid and no interference is required.

(vii) The Additional Agent to Government has submitted parawise remarks submitting that the 1st respondent herein, has got the Petitioner Schedule land of an extent of Ac.10.98 Cts in Sy.No.14/1, 14/3 & 14/4 of Patharamavaram Village of Gangavaram Mandal through Succession from his Grandfather, namely Late Moganti Surya Rao S/o. Nookayya who purchased the said lands through registered sale deeds in the year 1911 and 1912 i.e., much prior to the A.P Schedule Area Land Transfer Regulations 1/1917 as such the provisions of AP Schedule Area Land Transfer Regulations 1959 as amended by Regulation 1/70, and further submitted that in the Year 1932, the lands of Patharamavaram Village of Gangavaram Mandal were got settled and the Fair Adangal Register was prepared and Sy.No's were allotted to the Petitioner Schedule lands and name of the grandfather of the 1st respondent was registered as Pattadar and requested to dismiss the Revision Petition.

(viii) However the Additional Agent to Government has further submitted in his remarks, that the Special Deputy Collector, Tribal Welfare, Rampachodavaram in LTRP No.124/1981 and LTRP No.56/1996 observed that "the officers may mistakenly understood/misread that the "Extract of the Settlement Adangal" copy of the Petitioner Schedule land as "Patta" instead of "Re-Settlement/Fair Adangal" Copy and mentioned that the Patta was also granted to the respondent for the Petitioner Schedule lands."

(ix) The background of cases and rival submissions give rise to following points for consideration.

(x) Whether the occupation and possession of subject lands by the 1st respondent/ non tribals is violative of the provisions of the AP Scheduled Area Land Transfer Regulations of 1 of 59 as amended by 1 of 70" or not?

(xi) The Clause (b) of Section 3(1) which was substituted by Regulation 1 of 1970 raised a presumption that the property situated in the Agency Tracts in possession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. The transfer of lands situated in the scheduled area

in favor of non tribals is prohibited under the Land Transfer Regulations 1 of 70 and its earlier AP Agency Area Land Transfer Act 1917.

(xii) Admittedly the lands mentioned in the Registered Sale deed (No.235/1911) dated.18-11-1911 was effected between Moganti Surya rao and Pamarthi Kannayya-ST only for the land only an extent of Ac. 6.00 and other Sale Deed dated.14-06-1912 effected between Moganti Surya rao and Pamarthi Chellayya (ST) only for the land an extent of nearly 0-60 cents.

(xiii) However the preliminary authorities in LTRP No.124/1981 and LTRP No.56/1996 and Appellate Authority/Additional Agent to Government have passed orders in favour of the 1st respondent here for the total extent of Ac.10.98 cts. Therefore the extent of lands covered by sale deeds are mismatching with the extent of lands covered by the impugned proceedings.

(xiv) The observations of the Special Deputy Collectors in both the LTRP No.124/1981 and LTRP No.56/1996 are relevant in respect of the claim of the 1st respondent. The following are the observations:

(xv) The Special Deputy Collector (TW), Rampachodavaram held in LTRP No.124/1981 held that "Patta was also granted by the settlement officer for the Petition Schedule lands to Moganti Surya Rao who is the successor of Moganti Nukayya". The Special Deputy Collector (TW) Rampachodavaram in subsequent proceedings held in LTRP No.56/1996 dated.10-12-1997 further held that "Patta was also granted by the settlement officer for the Petition Schedule lands to Moganti Surya Rao who is the successor of Moganti Nukayya. Hence the present Petition filed by the Special Deputy Tahsildar (TW), Gangavaram is here in dropped".

(xvi) But there is no such Settlement Patta was produced by the 1st respondent in the said proceedings held in LTRP No.124/1981 and LTRP No.56/1996 in support of his claim for the total extent of land Ac.10.98 cts, instead of Ac.6.60 cts covered by above referred sale deeds. Therefore the observation of the Special Deputy Collector (TW) Rampachodavaram that Patta was granted in favor of Moganti Suraya Rao is not valid and proper and not supported by any factual and documentary evidence on record.

(xvii) The Additional Agent to Government also has also agreed in his aspect (Please refer parawise remarks-Grounds-Paras 4, 7&8) that the Special Deputy Collector, Tribal Welfare, Rampachodavaram in LTRP No.124/1981 and LTRP No.56/1996 observed that the officers may mistakenly understood/misread that the "Extract of the Settlement Adangal" copy of the Petition Schedule land as "Patta" instead of "Re-Settlement/Fair Adangal" Copy and mentioned that the Patta was also granted to the respondent for the Petition Schedule lands."

(xviii) However deviating his own observations in the impugned order passed in CMA No.17/2022, the Additional Agent to Government held that "In the Year 1932, the lands of Patharamavaram Village of Gangavaram Mandal were got settled and the Fair Adangal Register was prepared and Sy.No's were allotted to the Petition Schedule lands and name of the Grandfather of the respondent was registered as Pattadar at the Petition Schedule lands." But there is no such evidence placed on record substantiating this observation. Therefore this observation is baseless and made on assumption.

(xix) The evidence of the Special Deputy Tahsildar (TW) in the case LTRP No.56/1996 is relevant to mention here to examine the issue further whether there is any proof that settlement of lands for an extent of Ac.10.98 cts was carried over during survey and settlement operations held in 1932 in favor of the nontribal claimants in this case.

(xx) During an enquiry before the Special Deputy Collector (TW) in LTRP No.56/1996, the Special Deputy Tahsildar, Gangavaram stated that "pre

settlement record is not available in collectorate and Revenue Divisional Officer, Peddapuram and also enquired about that record in Mandal Revenue Officers office Addateegala. The record is not traced in the Mandal Revenue Officer's office, Gangavaram also". Therefore there is no record available to buttress the argument that the survey and settlement operations were held in favour of the non tribal claimants in the case in 1932.

(xxi) Now there is a need to examine further the photo copy of the document filed by the 1st respondent which is considered as a "Fair Adangal Settlement Register" by the Additional Agent to Government in the instant case.

(xxii) In fact the photo copy of the document filed by the 1st respondent before the preliminary and appellate authority / Additional Agent to Government is the "Karnam copy of the Settlement Adangal of Village of Pathavaram, Yellavaram taluk prepared manually which shows that S.No.14/1 (Ac.3/91cts); 14/3 (Ac.6.35cts) and 14/4(0.72 cts), stood over on the name of Moganti Surya Rao. There is another version on the said photocopy manually written as "Copy of the Settlement Fair Adangal of No 20 Patharamavaram (V) on the typed document of Karnam. Therefore this document raises a serious doubt on the authenticity of the said document prepared by Karnam in the absence of a settlement record prepared and signed by the concerned settlement officers during survey and settlement operations held in 1932. The karnam copy was also seen light first time during the enquiry held in LTRP No.124/1981 after the commencement of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70.

(xxiii) In the case of transfer of immovable property situated in the scheduled area of Andhra Pradesh in favor of a non-tribal either from a tribal or another non-tribal, is made absolutely null and void under the provisions of Sub-section (1) of Section 3, the Agent, Agency Divisional Officer or any other prescribed Officer, as the case may be, is bound to restore the said land to the tribal transferor under the provisions of Clause (a) of Sub-section (2) of Section 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 (Regulation 1 of 1959) as amended by Regulation 1 of 1970. The burden of proof lies on a non tribal land occupant in the scheduled area that the land has not come from tribal and in violation of the tribal protective laws.

(xxiv) Therefore authorities erroneously considered the Karnam copy of settlement adangal as Settlement Patta issued by competent authorities without producing the original settlement record prepared by the settlement authorities or certified extract of the record maintained by the Settlement Office. More over there is no correlation statement filed by the 1st respondent corroborating the survey numbers mentioned in the karnam copy of the settlement adangal prepared with the corresponding official survey and settlement record maintained with old survey numbers.

(xxv) It is true that the sale transactions held between Tribals and non tribals in 1911 and 1912 are not hit by the provisions of AP Agency Area Land Transfer Act 1917 or subsequent Land Transfer Regulations as observed by the Additional Agent to Government and the 1st Respondent. But the extent of land covered by the said sale deeds is Ac. 6.00cts and 0.60 cts only (Total Ac.6.60 cts).

(xxvi) The observation of the Additional Agent to Government in his order that" the Petition Schedule lands were purchased by forefathers of the Appellant here in through "registered sale deeds in the year 1911 and 1912' and said land was devolved to the appellant through succession" which is factually in correct because the sale transaction between tribal and non tribal, though held through an unregistered sale paper but it was considered as a Registered Sale Deed in 1912. It shows that authorities are not properly examining the documents filed by the parties during the enquiry.

(xxvii) The further observation of the Additional Agent to Government, in the impugned order is that the Tahsildar Gangavaram has reported that the extent of the lands situated within the boundaries mentioned in Registered Sale Deeds 1911 and 1912 which comes to an extent of Ac. 10.98 cts while confirming the lands located within the appeal schedule lands covered by S .No. 14/1, 14/3 and 14/4 of Patharamavaram (V). This observation deserves to be examined further in the light of the reports submitted by the authorities.

(xxviii) The report of the Tahsildar, Gangavaram given Vide Ref. B/223/2022 dated.15.12.2022 to the Project Officer, ITDA, Rampachodavaram, has been examined which is a basis to pass orders in favour of the 1st respondent here in by the Additional Agent to Government.

(xxix) The Tahsildar has not reported there in that he had examined the particulars of the boundaries mentioned in the sale deeds 1911 and 1912 and its connected land records or sale deeds of the neighbour ryots to correlate to the disputed lands covered by S.No.14/1, 14/3 and 14/4 (AC.10.98 cts) with the lands mentioned with in the boundaries cited in the sale deeds 1911 and 1912.

(xxx) The correlation of the lands mentioned in the sale deeds and disputed land covered by the present case is very much essential in the absence of survey numbers cited in the referred sale deeds of 1911 and 1912. Therefore the observation of the Additional Agent to Government that the lands cited within the boundaries of the sale deeds and lands situated in Sy. Nos.14/1, 14/3 and 14/4 are one and the same is not acceptable.

(xxxi) The Tahsildar, Gangavaram has reported to the District Collector Vide Ref. NA/129/2021 dated.27-11-2021 that the land (Ac.11.01 cts) covered by the orders of the Special Deputy Collector (Tribal Welfare) passed in LTRP No.12/2005 to the Revision Petitioner here in on 18-08-2021. The corresponding "land handing over receipt" Vide Ref. B/115/2021 dated.18.08.2021 also reveals that the land an extent of Ac. 11.01 cts is situated in Sy. No. 14/1, 14/3 and 14/4 which was taken over by the Tahsildar from the possession of Sri Moganti Venkatarao (1st respondent herein) handed over to the Pamarthi Rambabu (Revision Petitioner herein) after conducting a detailed field enquiry. Therefore the extent of lands mentioned in one report of the Tahsildar, Gangvaram in respect of the present case is different from the other report of the Tahsildar submitted to the other higher authorities. As such the report of the Tahsildar is not reliable.

(xxxii) Another question for the consideration is whether the proceedings held by the Special Deputy Collector (TW) in LTRP No.124/1981 and subsequent proceedings in LTRP No.56/1996 operate as resjudicata to the proceedings held in LTRP No.12/2005 as raised by the is respondent herein. The Additional Agent to Government passed the impugned order in CMA No.17/2022 setting aside the order passed by the Special Deputy Collector (TW) in LTRP No.12/2005 on merits.

(xxxiii) It can be seen from the records the Special Deputy Tahsildar (TW) Gangavaram filed a complaint in LTRP No.124/1981 on behalf of the petitioner there in namely Pamarthi China Musalayya against the respondents there in Moganti Jogi raju and Moganti Vishnumurthy which was allowed in their favour in 1982, and subsequently another complaint was filed by the Special Deputy Tahsildar (TW), Pidathamamidi, in LTRP No.56/1996 on behalf of the Petitioner namely Annika Annapurna against the respondent-Moganti Venkata rao which was allowed again in his favour in 1997.

(xxxiv) Therefore records show that the Revision Petitioner here in was not a party to the earlier proceedings held either in LTRP No.124/1981 or LTRP No.56/1996. The issues raised in the said proceedings by the parties there in are different and distinct from the issues raised by the Revision Petitioner here

in before both the Appellate as well as this Authority. Therefore, the principle of resjudicate is not applicable to the facts of the present case.

(xxxv) The Hon'ble High Court of AP, held that the orders passed in the first proceedings initiated under the Regulation will not operate as Resjudicata if the later proceedings were initiated by a third party or by the same party on the basis of any further material (2003(6)ALD NOC 68).

(xxxvi) Moreover the Karnam copy of the Adangal copy was considered as Settlement Patta in the earlier proceedings held in LTRP No.124/1981 and LTRP No.56/1996 which has become a subject matter of legal dispute as well as un registered sale paper executed in 1912 was considered as Registered Sale Deed in the impugned proceedings are new material factual issues which were not examined earlier.

(xxxvii) The Division Bench of AP High Court further held that, the earlier proceedings do not operate Resjudicata in the present proceedings, if the question involved in the earlier proceedings is distinct and different from the one on the basis of which the present proceedings initiated (2003(1) ALD 386, DB).

(xxxviii) The full bench decision of the Hon'ble High Court in its case Vemana Somalamma Vs Deputy Collector, Tribal Welfare, Rampachodavaram (1993(1) ALT 409) held that" the object of the Regulations seem to be that all immovable property in agency tract as far as possible must be restored to Government or Tribals, as it was held by them at one time."

(xxxix) Taking in to consideration of the facts and available reports on the record, it is hereby ordered that the 1st respondent here in is entitled only to an extent of the lands (Ac.6.60 cts) as mentioned in the said sale deeds of 1911 and 1912 produced by him not for all the subject lands covered by the impugned order passed in CMA No.17/2022 by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District.

(xl) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition, filed by the Petitioner is hereby partially allowed. Therefore the impugned order Dated:24.01.2023, passed by the Additional Agent to Government in CMA No.17/2022 is hereby modified while setting aside the order. The Tahsildar, Gangavaram is directed to handover only an extent of Ac.6.60 cts to the 1st respondent here in and hand over the remaining extent of lands covered by the impugned order passed in CMA No.17/2022 to the Revision Petitioner (ST) / Pamarthi Rambabu and report compliance to the Additional Agent to Government, Rampachodavaram. As a sequel interim order if any passed in the matter is hereby vacated. Revision Petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition, filed by the Sri. Pamarthi Rambabu, S/o. Ramaiah, Vemanapalli (V), Gangavaram (M), Alluri Sitharamaraju District erstwhile East Godavari District is hereby partially allowed. Therefore the impugned order Dated:24.01.2023, passed by the Additional Agent to Government in CMA No.17/2022, Dt.24.01.2023 is hereby modified while setting aside the order. The Tahsildar, Gangavaram is directed to handover only an extent of Ac.6.60 cts to the 1st respondent here in and hand over the remaining extent of lands covered by the impugned order passed in CMA No.17/2022 to the Revision Petitioner (ST) / Pamarthi Rambabu and report compliance to the Additional Agent to Government, Rampachodavaram. As a sequel interim order if any passed in the matter is hereby vacated in the matter.

7. The Collector & District Magistrate, Alluri Sitha Rama Raju District, Paderu is requested to take necessary action in the matter and acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Agent to Government cum Collector & District Magistrate,
Alluri Sitharama Raju District. 530011
The Additional Agent to Government cum Project officer,
ITDA, Rampachodavaram, Alluri Sitharama Raju District.
(with original records) (By RPAD). 533288
The Special Deputy Collector (TW), Rampachodavaram,
Alluri Sitharama Raju District. 533288
The Tahsildar, Gangavaram Mandal,
Alluri Sitharama Raju District. 533284
Sri K.V.Ramana, Advocate,
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